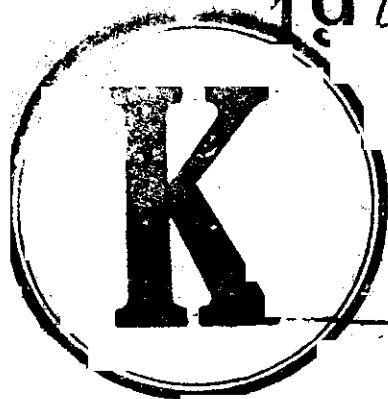




1946.

File No. O. Rationing /46

Legal Dept

A BRANCH

Subject:—

P-13
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Opinions under the
Bombay Rationing Order 1943

File No.

Gen. 194-e.

O Rationing /46

147-A

C O N T E N T S.

Legal Department File No. O. Rationing /46.

Sr. No.	Compilation No.	Subject	Pages.
Opinions under the Bombay Rationing Order, 1943.			
1.	R.I. No. 620/24-1-46. O. No. 768/28-1-46.	Necessity of an order under clause 20(1) of the ^{order} ~~order~~ in order to dispose of otherwise than ^{on} ~~and~~ a rationing authority the rationed articles in Govt. Godown which have become unfit for human consumption. Ration whether the practice of obtaining such permissions from the controller of Rationing cannot be dispensed with and if so, whether such ~~and~~ orders can be signed by the Food-Controller or the A.S., P.D. (Supply) in the F.C.'s office.	1-2
2.	R.I. No. 255/10-1-46. <u>O. No. 79-Conf.</u> 18-2-46.	Re: Prosecution of an authorised retail distributor for the breach of cl. 6 of the order read with cl. 27(1) of the A.R. and Rationing Regulation	3-6
3.	O. No. 1608/26-2-46.	Request from the manager of a certain Temple for a food grain ration permit for the use of the temple Refused of	7-8
4.	O. No. 2075/14-3-46.	Question regarding (1) the desirability of amending the Definition of "A.S. E." and "Authorised Establishment" in the A.R. 193 to ~~to make~~ clear the liability of the	

C O N T E N T S.

Sr. No.	Compilation No.	Subject	Pages
4.(Continued)		~~of the~~ employees of the A.R.D. for any breach of the A.R.D. (2) The effect of rule 5 of D. of, D, Rule in case where an A.R.D. an ~~authorized establishment is thought to be~~ ~~authority to the~~ prosecuted for breach of rationing rules committed by employees.	9-10
5	J. No. 5939/27-8-46.	Question whether the maximum proportion of the food grains obtainable as supplementary ration off the ration cards. If the railway employees should be fixed the D.M. under cl. 3 of the Notification in question or cl. (1) of the Rationing Regulations. 2) whether such fixation should be notified in the J.G.C.	11-12
6	J. No. 6418/20-7-46.	Question whether the order of the M.I. A.H.'s had directly supply of sugar ration to some Hotel keeper on sugar permit for certain week is binding on the Rationing Deptt.	13-14
7	J. No. 8930/10-12-46.	Question whether under cl. 11(c) of the Rationing order Govt. can issue a direction to A.R. D's to withhold rations on a ration card which is normally valid unless it is renewed in the prescribed period.	15-16

PMB
25/7

NKD
25/7

Submitted with reference to the Food Controller's note at p. 9 ante.

2. Please see R.L.A.'s opinion No. 8470, dated 13-11-1945 where in it was held that the sale from a Government godown of rationed articles unfit for human consumption being otherwise than on a ration authority, an Order under clause 20 of the Bombay Rationing Order, 1943 would be necessary. As it takes some time in obtaining such authorities from the Controller of Rationing, the A.S., F.D. (Supply), working in the Food Controller's office has proposed provincial Govt. is competent (under cl. 24(1)) to do anything, and as that "as the Food Controller is D.S. to Government, they both can issue orders under clause 20(1) effective for the disposal from a Government godown of rationed articles unfit for human consumption. The Food Controller has requested the R.L.A. to advise whether the practice of obtaining such permissions from the Controller of Rationing cannot be dispensed with and if so, whether such orders can be signed by the Food Controller or the A.S., F.D. (Supply) in the F.C's office.

A.L.R.

I agree. Reply may be:-

There is no objection to issuing orders under cl. 20(1) of the Bombay Rationing Order as proposed by As (F.D. Supply) in his note at p. 8 ante.

12/25/1

U.R. to Food Controller No. 768 of- dated 28-1-1946.

Seen and returned.

The authorised retail distributor can be prosecuted for the breach of clause 6 of the Bombay Rationing Order, 1943 read with clause 27(1) of the Ahmedabad Rationing Regulation.

P.N.M. 18/2/46.

Remembrancer of Legal Affairs.

U.R. to C. of R., No. 79-Confl., dt. the 18th
Feb., 1946.

Office of the R.L.A.

Under clause 3 of the Bombay Rationing Or 1943, the power to issue authorisations to dealers and establishments to supply rationed articles is discretionary; and "establishment" as defined in sub-clause (4)(a) of clause 2 does not appear to include a temple where rationed articles are required to prepare customary offerings at the Bhogs of the deity. Under clause 9 read with clause 7 it appears a ration document can be issued to a person to obtain rationed articles for household consumption. Customary offerings at the Bhogs of a deity involve no consumption of food. Consequently it appears that Government is justified in refusing any authorisation or ration document to the manager of the Dakore Temple to obtain rationed articles for preparing the customary offerings at the Bhogs of the deity.

2. It is true that the refusal to issue any authorisation or ration document to the manager of the Dakore Temple affects the Dakore Temple scheme prepared by the High Court whereunder provision for the customary offerings at the Bhogs has to be made (see clause 19 of the Scheme). But that is not a valid ground for exempting under clause 21 of the Bombay Rationing Order, 1943, the Dakore Temple from the provisions of that Order. The trustees would not be liable for the breach of clause 19 of the scheme when it is impossible of fulfilment in view of the Bombay Rationing Order and if they have any apprehension, the proper course for them would be to apply to the High Court under clause 21 of the Scheme for a modification thereof so long as the Bombay Rationing Order is in operation.

14/28/2

Remembrancer of Legal Affairs.

According to the definitions of "authorised retail distributor" and "authorised establishments" in clause 2(2) and (3) of the Bombay Rationing Order, 1943, the employees of authorised retail distributors and authorised establishments other than those in charge of a shop appertaining to a rationed article and under the control of Crown and those in charge of an establishment under the control of the Crown would be liable only as abettors under rule 121 of the Defence of India Rules for the breach of any provisions of the Bombay Rationing Order and the Regulations thereunder. If it is intended to make such employees liable as principal offenders for such breach, clause 2(2) and (3) of the Bombay Rationing Order, 1943, will have to be suitably amended.

2. It is true that under rule 5 of the Defence of India Rules a person in occupation, possession or control of a rationing shop or establishment would be liable for the breach of the provisions of the Bombay Rationing Order and the Regulations thereunder even though he is not an authorised retail distributor or the keeper of an authorised establishment (see the decision of the High Court in Cr. Revision Application No. 602 of 1944); but the person contemplated by rule 5 is one like the manager who has control over the shop and power to transact business. An ordinary employee in a shop who works under the orders of his employer or manager will not come within the ambit of rule 5 of the Defence of India Rules. If as stated by the District Traffic Superintendent is the A.R.D. and in societies the chairmen are the A.R.Ds., the managers of such organisations can by virtue of rule 5 of the Defence of India Rules be held liable for the breach of the provisions of the Bombay

* Magistrate, Ahmedabad,
in his letter at page 1 ante
in cases of large organisations
shop authorizations are
issued in the names of
highest persons e.g. in
the Railway shop the
District —>

~~the~~ Bombay Rationing Order and the Regulations ~~for~~
thereunder

Sd/-

R.T. Hoos 13/3

R.L.A.

U.R. to the Controller of Rationing No. 2075

dated 14-3-1946.

Office of the R.

The questions raised for the consideration of the R.L.A. are :-

(1) Whether the maximum proportion of the food-grains obtainable as supplementary rations off the ration cards for the railway employees allowed by the Civil Supplies Department Notification No. 143/C.R. XV dated the 2nd May 1946 should be fixed by the District Magistrate under clause 3 of that notification or under clause 17 of the Rationing regulations in respect of Virangaon, Dholka, Dhandaka, Modasa and Prantij;

(2) Whether such fixation should be notified in the Bombay Government Gazette.

The Civil Supplies Department Notification No. 143/C.R. XV, dated the 2nd May 1946, has been issued by Government under clause 20 of the Bombay Rationing Order, 1943, authorising the distribution for household consumption of all rationed food-grains otherwise than on a ration document to an employee of any of the railway administrations specified in the schedule; and under clause 3 of the power to determine the maximum proportion of any grain comprised in such quantity is given to the District Magistrate. Clause 17 read with clause 13(2) of the Regulations in respect of Virangaon and other places appears to contemplate the fixation of the maximum proportion of any food-grain issued on a ration card and consequently that clause will have no application to the present case. Clause 3 of the Civil Supplies Department Notification No. 143/C.R. XV dated the 2nd May 1946 would be the proper authority where under the District Magistrate can fix the maximum proportion of any food-grain comprised in quantity allowed to an employees of a railway administration. It is true that clause 3 does

3 does not prescribe any mode of publicising the order of the District Magistrate, fixing such maximum proportion. It would, however, as observed by the Controller of Rationing at page 26 ante, be more appropriate to notify such order in the Bombay Government Gazette particularly when one of the District Magistrates (i.e. the District Magistrate, Surat) has already done so.

11 / 21/8

Remembrancer of Legal Affairs.

U.O.R. to CR's Office, No. 5939, dated the

27th August 1946.

Office of the R.L.A.

Government not being a party either to the Civil Suit No. 1498 of 1945 or to the appeal from the Order No. 38 of 1945 passed in that suit, the Order passed by the District Judge, Ahmedabad on the application of the respondent Patel Haganlal Jinabhai in that appeal, would not be binding on Government. Furthermore the District Judge's Order directing that "the ration of sugar for the week commencing 26th November 1945 and ending 2nd December 1945 should be supplied to the applicant" is ultra vires the provisions of clause 43(2) read with clauses 27 and 39 of the Ahmedabad Rationing Regulations, 1943. Whether or not the District Judge's Order should be respected is a matter for the administrative department to decide.

Id. 18/9

Remembrancer of Legal Affairs.

U.O.R. to the Controller of Rationing, Bombay,

100. 34.10, dated the 20th Sept., 1946.

The question raised for the consideration of the R.L.A. is whether under clause 11(c) of the City of Bombay Rationing Regulation, 1943 Government can issue a direction to authorised Retail Distributors to withhold rations on a ration card, which is normally valid unless it is renewed in the prescribed period.

Clause 11(c) of the City of Bombay Rationing Regulation, 1943 provides that no person may obtain any rationed article on a ration card unless he complies with any other directions which the Provincial Government in this behalf may issue. The directions contemplated by this provision would be such as could be complied with without affecting the vested rights of the ration card holder. Under clause 16(1) on demand and offer of price by or on behalf of the holder of a valid ration card registered with an authorised retail distributor and against cancellation of the appropriate coupon or part thereof, the distributor shall supply to the holder rationed articles, not exceeding the quantity obtainable on the coupon or part thereof as the case may be. It is therefore

* To direct him that he would not be entitled to ~~the supply of rationed articles~~ ^{the supply of rationed articles} so long as his card is valid ~~to the~~ ^{to} his rations on his ration card unless

it is renewed in the prescribed period would be to deprive him of his vested rights under the ration card, for it may be possible that he may not want to renew his ration card. Consequently the direction proposed to be issued by Government would not be intra vires the provisions of clause 11(c) of the City of Bombay Rationing Regulation, 1943.

Remembrances of Legal Affairs.

U.R. to C. of E. No. 8930, dated the 10th Dec.,
1946.

SS. / 11/7/56.